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REMARKS/ARGUMENTS

Responsive to the Official Action mailed July 1, 2003, applicants have revised the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, claims 1, 13-18, 23, 25, and 26 have been amended. Reconsideration is respectfully requested.

As discussed in the Specification, applicants' invention is directed to a highly cost-effective protective cover for agricultural products, which can be inexpensively manufactured and applied to products for protection from insects, dust, and debris. At the same time, the protective cover desirably provides breathability, and can be configured to permit ingress of rain or other moisture. In accordance with the disclosed embodiments, each cover includes a portion which exhibits the ability to modify ripening of the associated agricultural product, prior to harvesting.

In the Action, the Examiner has rejected the pending claims under 35 U.S.C. §103, with principal reliance upon U.S. Patent No. 6,030,906, to Hassenboehler et al., with further reliance upon U.S. Patent No. 6,061,954, to Vanier. Applicants must respectfully maintain that there is simply no teaching or suggestion in the principal Hassenboehler et al. reference, which is specifically directed to *protective apparel*, that the fabric constructs disclosed therein would have any suitability for use as protective cover for *agricultural products*. As is evident from a careful study of this reference, the fabric constructs disclosed therein are specifically configured for *human use*, and as such, are constructed in a fashion which could be *deleterious to agricultural products*.

By the present Amendment, applicants have revised their pending claims to specify that the nonwoven fabric constructs employed for practice of their invention are made from material *selected from the group consisting of thermoplastic polymers*. As such, applicants are specifically excluding use of cellulosic fibrous material, while the teachings of Hassenboehler et al. are *specifically limited to the use of such cellulosic material*. While use of such cellulosic fibrous material can be advantageous for use in protective apparel, the use of such material cannot only be prohibitively expensive, but undesirable for use in protecting agricultural products. Moisture retention by the cellulosic material can lead to *moldering*, potentially adversely affecting the protective cover itself, as well as the associated agricultural product. This is a very important shortcoming in the teachings of the principal Hossenboehler et al. reference, and underscores the fact that one skilled in the art *would not* consider the teachings of this patent in formulating nonwoven fabric constructs configured as protective covers for agricultural products.

A study of the Hassenboehler et al. reference clearly shows the limited and specific nature of its teachings. At column, line 17 *et seq.*, it is stated:

This invention relates generally to laminated webs made up of at least one inner layer of cellulosic material sandwiched between outer nonwoven layers. . . .

In teaching away from use of fabric constructs formed entirely from thermoplastic polymer material, Hassenboehler et al., states, at column 4, line 20 that:

Nonwoven webs of man-made fibers generally have the reputation of notoriously lacking many of the properties of woven natural-fiber webs, in particular, hand, wicking, and liquid absorption and retention.

At column 10, line 59 *et seq.*, Hassenboehler et al. characterizes a preferred form by stating:

As noted, a preferred precursor web in accordance with the present invention comprises an inner layer of cellulose-based natural fibers which is sandwiched between outer layers of man-made thermoplastic fibers.

All of the disclosed examples of Hassenboehler et al. include a layer of cellulosic fibers, in accordance with the contemplated use for apparel. As will be evident by those skilled in the art, Hassenboehler et al. contemplates the inclusion of such cellulosic fibrous material for providing the desired characteristics for apparel applications, and "post-drawing the web under certain conditions, [so that] at least the synthetic man-made fibers of the precursor web are restructured to provide the laminated web with unique measures of pore size, directional absorption, elastic recovery, strength, wicking, liquid absorption capacity, breathability, and barrier properties, as well as good drape and hand which make them ideally suited for a variety of end uses such as protective apparel, face masks, diapers and sanitary napkins, wound dressings, respirators, wipes, chemical reservoirs, wicks, and surgical drapes."

The Examiner has acknowledged that Hassenboehler et al. does not disclose sizing the cover to fit around an associated agricultural product. In light of this admitted shortcoming in the teachings of Hassenboehler et al., the Examiner has relied upon the

secondary Vanier reference. However, applicants must respectfully maintain that *only their own disclosure* would suggest combining the teachings of these diverse references. It is respectfully maintained that this cannot provide a proper basis for formulating a rejection under 35 U.S.C. §103. Reference is respectfully made to M.P.E.P. Section 2143.01, which specifically admonishes that "the prior art must suggest the desirability of the claimed invention", and that the "fact that references can be combined or modified is not sufficient to establish *prime facie obviousness*.

Applicants appreciate the Examiner's careful consideration of their previous Response, and the Examiner's thorough and considered response to applicants' arguments. Applicants have thus attempted to more particularly recite preferred forms of their invention, that is, those which can be practiced in a particularly cost-effective manner by manufacture from nonwoven fabric constructs formed entirely from, apart from disclosed additives, polymeric thermoplastic material.

At page 8 of the Action, the Examiner addresses applicants' previous Response. Applicants must respectfully take exception with some of the Examiner's statement. In the Action, the Examiner has stated, with respect to the specific and limited teachings of Hassenboehler et al., that "the medical uses are considered only possible uses and not considered limiting. Because properties of the cover are, *inter alia*, elastic recovery, strength, breathability, and barrier properties [the] Examiner considers the cover an obvious laminated nonwoven web to make into agricultural covers". As noted above, applicants have revised their claims in a manner which emphasizes the unsuitability of the

constructs disclosed in Hassenboehler et al. for use as agricultural covers. Moreover, applicants must respectfully maintain that Hassenboehler et al. clearly *teaches away* from applicants' claimed invention, when the clear thrust of Hassenboehler et al. is *medically-related* applications for human apparel and the like. It is respectfully maintained that it is simply reading beyond the teachings of Hassenboehler et al. to suggest that such "protective apparel" would be suitable for agricultural applications.

In the Action, the Examiner states that he considers the combination of references "to be proper because both go to solving a similar problem -- covering and protecting a biological entity". While it is acknowledges that agricultural products and humans are, in fact, both "biological entities", applicants must respectfully maintain that protective apparel for humans, and protective covers for agricultural products, are two entirely different endeavors, and that nonwoven fabric constructs suitable for use in one application *would not* necessarily be suitable for the other.

In applicants' previous Response, they specifically address the shortcomings in the secondary Vanier reference, which is specifically limited in its teachings to the formation of an agricultural product cover from plastic film material. Applicants must respectfully maintain that neither of the references cited by the Examiner teach or suggest the formation of protective covers for agricultural products from nonwoven fabric constructs formed from thermoplastic polymeric material.

Application No. 10/081,674
Amendment dated November 17, 2003
Reply to Office Action of July 1, 2003

In view of the foregoing, formal allowance of claims 1, and 3-26 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number below.

The Commissioner is hereby authorized to charge any additional fee which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

By 
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